

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 06-0175
Indiana Adjusted Gross Income Tax
For 2002, 2003, 2004

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

I. Proposed Assessments – Adjusted Gross Income Tax.

Authority: Ind. Const. art. X, § 8; IC 6-3-1-1 et seq.; IC 6-3-1-3.5(a); IC 6-3-1-8; IC 6-3-1-9; IC 6-3-1-12; IC 6-3-1-15; IC 6-8.1-5-1(a); IC 6-8.1-5-1(b); 26 U.S.C.S. § 61(a); 26 U.S.C.S. § 62;

Taxpayer challenges the Department of Revenue's decision to issue Proposed Notices of Assessment and its subsequent efforts to collect the purportedly unpaid state income taxes.

STATEMENT OF FACTS

The Department of Revenue (Department) determined that taxpayer owed individual state income tax for the years 2002, 2003, and 2004. Thereafter, the Department undertook various steps to collect the taxes.

Taxpayer responded citing to, inter alia, United States Supreme Court cases allegedly supporting taxpayer's premise that the proposed assessments were unconstitutional. In his correspondence, taxpayer stated that "I am asking you once again to show me the law implementing regulations that requires me to participate in whatever it is that you are demanding."

The matter was assigned to a Hearing Officer to permit taxpayer to explain the basis for his arguments. An administrative hearing was scheduled for June 26 in which taxpayer was offered the opportunity to set out his arguments either in person or by telephone. Taxpayer demurred stating that he was unable to take part in the scheduled hearing. A second hearing was scheduled for June 30; taxpayer chose not to participate.

This Letter of Findings is written based upon the numerous documents submitted by taxpayer and upon the information provided by the Department.

DISCUSSION

I. Proposed Assessments – Adjusted Gross Income Tax.

The Department's stance is that taxpayer owes individual Indiana income tax for 2002, 2003, and 2004. Taxpayer's stance is that proposed assessments are unwarranted and – apparently – unconstitutional.

Under authority of the Indiana Constitution, Ind. Const. art. X, § 8, the General Assembly enacted the Adjusted Gross Income Tax of 1963 (Act). IC 6-3-1-1 et seq. The Act defines “adjusted gross income” in the case of individuals, as the term is defined in 26 U.S.C.S. § 62 with certain modifications specific to Indiana. IC 6-3-1-3.5(a). Thus “adjusted gross income” is, “in the case of an individual, gross income minus . . . [certain] deductions.” 26 U.S.C.S. § 62. Similarly, the Act incorporates the definition of “gross income” as found in I.R.C. § 61(a). IC 6-3-1-8. Therefore, “gross income” consists of “all income from whatever source derived” 26 U.S.C.S. § 61(a).

Taxpayer has provided approximately 100 pages of documents which taxpayer believes demonstrate that the proposed 2002, 2003, and 2004 assessments are unjustified. In those documents, taxpayer cites to numerous United States Supreme Court and lower court cases, the Internal Revenue Code, and the Code of Federal Regulations. Taxpayer also raises issues related to the “Federal Reserve,” the “unlawful delegation of legislative authority,” the “Paperwork Reduction Act,” the authority for the IRS to issue a summons, whether the Bureau of Alcohol, Tobacco and Firearms has the authority to “levy and distraint” (taxpayer apparently agrees that “seamen” and “noncompetent Indians” can be levied for unpaid taxes), the Administrative Procedure Act, the Social Security Independence and Program Improvement Act of 1994, the Revenue Act of 1942, and the 2003 Internal Revenue Manual.

Taxpayer has provided page-after-page of documents but has failed to explain the relevance or significance of any of the thousands of words contained therein. Taxpayer's protest letter is essentially a mishmash of irrelevant court cases and references to unrelated federal statutes and regulations. Taxpayer has failed to elaborate on or substantiate the basis for his protest and the Department will not expend its time or resources attempting to discern each and every one of taxpayer's numerous and undeveloped “arguments.”

IC 6-8.1-5-1(a) states that, “If the department reasonably believes that a person has not reported the proper amount of tax due, the department *shall* make a proposed assessment of the amount of the unpaid tax on the basis of the best information available.” (*Emphasis added*). IC 6-8.1-5-1(b) states in relevant part that “The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

The Department was justified in arriving at a determination of taxpayer's liabilities based upon “the best information available.” Taxpayer has provided nothing of substance to overcome the presumption of correctness – afforded by virtue of IC 6-8.1-5-1(b) – attached to the Department's initial assessments.

Taxpayer has attempted to resolve his potential tax liabilities with numerous words and pages of text. Statutory technicalities and wishful thinking aside, given that taxpayer is a “natural person” (IC 6-3-1-9), was a resident of Indiana for the years 2002, 2003, and 2004

(IC 6-3-1-12), presumptively received taxable income, and is a “taxpayer” as defined within IC 6-3-1-15, the statutes imposing the state’s individual adjusted gross income tax (IC 6-3-1-1 et seq.) apply with equal force to the taxpayer as they do to each and every other resident of this state.

FINDING

Taxpayer’s protest is denied.

DK/CD/JM – 060607